

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

COMDATA NETWORK, INC.)	
)	No. 3-05-0130
v.)	
)	
IMAGE TRANSPORTATION)	
SERVICES, INC., and JAMES MUHE)	

MEMORANDUM

Pending before the Court is the plaintiff's motion to alter or amend (Docket Entry No. 32) the order entered June 21, 2005 (Docket Entry No. 31).

The plaintiff contends that the defendants stipulated that both defendants were liable to the plaintiff for the full amount of the debt at issue, citing the case management order (Docket Entry No. 28), the defendant's answer (Docket Entry No. 19), and defendants' counsel's representations in open Court, all of which the Court was aware of when it denied the plaintiff's motion for partial summary judgment against defendant Muhe.

In response to the plaintiff's motion, the defendants contend that the plaintiff sued defendant Muhe only in his capacity as an officer of the defendant corporation, not as an individual. The basis of that contention is not clear to the Court.

However, as set forth in the memorandum entered June 21, 2005 (Docket Entry No. 30), the Court is reluctant to enter judgment against defendant Muhe individually since such judgment would be tantamount to a finding that the corporate veil has been pierced. Despite the defendants' stipulations, it is clear to the Court that the defendants believed, apparently erroneously, that they

were stipulating to the indebtedness of defendant Image Transportation and to the indebtedness of defendant Muhe only as an officer of the corporation.¹

That is not to say that the plaintiff does not have sufficient grounds to pierce the corporate veil--only that such grounds have not been asserted.

The plaintiff shall have the opportunity to file another motion for partial summary judgment and/or take discovery on this issue if it chooses. Upon motion of the plaintiff, the Court will extend any appropriate deadlines to allow the plaintiff those options.

An appropriate order will enter.



JULIET GRIFFIN
United States Magistrate Judge

¹ The customer service agreement at issue was signed by James Muhe, as the authorized customer representative and president of Image Transportation Services, Inc. See Attachment to Complaint.